



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-104 Small business tax relief based on volume of business.**

Date last adopted: **7/27/98**

Reviewer: **Pat Moses**

Date review completed: **10/10/01**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES", provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

The goal of Rule 104 is to describe and explain two methods by which the legislature has provided tax relief to smaller volume businesses. This tax relief comes in the form of a Public Utility Tax (PUT) income threshold and a Business & Occupation (B&O) tax small business credit. The PUT threshold is an all-or-nothing income amount where no PUT tax is due until the assigned amount per reporting frequency is reached, at which point the PUT is due on the entire income amount. With the small business tax credit a full B&O credit is allowed, up to certain volumes of business, and reduced amounts of credit can be taken as the business volume increases, until the business reaches a point where no small business tax credit is allowed.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of



	Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain. **The application of the small business B&O tax credit and the concept of a PUT income threshold is somewhat complicated and at times, difficult to grasp. This rule provides explanations and examples which help taxpayers and departmental staff to reduce the number of reporting errors directly attributable to misapplications.**

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

This rule was last revised effective 8/27/1998. No documents have been issued since that time providing information that would add to the effectiveness of the rule.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain.

This rule is relied upon by both taxpayers and departmental staff. The rule is organized in a clear and concise manner. The rule provides directions, worksheets, and examples that greatly simplify the subject.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain.

RCW 82.32.300 authorizes the Department of Revenue to make and publish rules.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.



The department has exclusive authority for administering business & occupation and public utility taxes, including the subject matter of Rule 104.

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

This is an interpretive rule that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

This rule clarifies the application of the B&O credit and PUT threshold. In that manner it helps to insure equitable treatment through consistent application of the underlying statutes.

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

- **RCW 82.04.4451 Credit against tax due—Maximum credit--Table**
- **RCW 82.16.040 Exemption**

Ancillary Documents (i.e., ETAs, PTBs, and ADs): **None**

Court Decisions: **None**



Board of Tax Appeals Decisions (BTAs): **None**

Administrative Decisions (e.g., WTDs): **None**

Attorney General's Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

Special Notice July, 1998 "Rule change on the small business credit for businesses with multiple accounts" – This notice indicates a change in the calculation of small business credit as a result of the revision of Rule 104. Instead of totaling the income of all tax reporting accounts within a single legal entity, the small business credit should now be computed for each separate tax reporting account.

10. Review Recommendation:

_____ Amend

_____ Repeal

_____ **X** Leave as is

_____ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

_____ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

The rule is correct as is. No significant changes in law or policy have occurred for this topic since the rule's last revision in 1998.

11. Manager action: Date: _____

_____ Reviewed recommendation _____ Accepted recommendation

_____ Returned for further action

Comments:

